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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,324	03/16/2001	Steven M. Schein	ST/ 028 CONT 2	9059
7590	08/15/2005		EXAMINER	
ALEXANDER SHVARTS FISH & NEAVE 1251 AVENUE OF THE AMERICANS NEW YORK, NY 10020-1105			TRAN, HAI V	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/810,324	SCHEIN ET AL.	
	Examiner	Art Unit	
	Hai Tran	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 May 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-37 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Terminal Disclaimer

The terminal disclaimer filed on 05/17/2005 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of US Patent No 6,002,394 and 6,263,501 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Information Disclosure Statement

The information disclosure statement filed 03/16/2001 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because references listed on Form PTO-892 must be listed on Form PTO-1449 for consideration. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Response to Arguments

Applicant's arguments filed 05/17/2005 have been fully considered but they are not persuasive.

Applicant argues (see Applicant Argument page 6, 2nd paragraph) that Herz' s information obtained from the data sources is based on a user-created customer profile, not "a selected television program title," as specified in Applicant claims 1 and 19.

In response, the Examiner respectfully disagrees with Applicant assertion because the customer profile is based on monitoring user' selected TV program viewing (Col. 29, lines 50-Col. 30, lines 10 and Col. 42, lines 8-12) and the system bases on user's profile, i.e., list of selected TV program title viewed by a viewer, the system identifies related data, i.e. advertisement, to selected TV program title viewed and then presents it to viewer (Col. 41, lines 20-25 and Col. 51, lines 48-55). Moreover, Herz discloses the collected data, i.e. user profile, could be collected by the data collection system 508,622 on a real-time basis (Col. 42, lines 60-63). For example, the TV program title is collected by the data collection system (508,622) *each time the user selects it*, and based on the collected data (user's profile contains selected TV program title viewed by a viewer), the system identifies related data to the collected data and then presents related data to corresponding viewer. Thus, Herz meets Applicant claimed limitation "an input device for selecting a television program title...a processor for identifying data available on a public network that is related to the selected television program title."

Accordingly, the Examiner maintains the rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim 1-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz et al (US 5,758,257).

Regarding claim 1, an interactive program guide having a display screen comprising:

A database for storing television schedule information including television program titles (Col. 25, lines 16-18). For instance, at col.25, line 16, Herz discloses “storing at the set top multimedia terminal...” Clearly, this meets the limitation of storing television schedule information including television program titles.

A display controller electrically coupled to the database for displaying some of the television schedule information including television program titles on the display screen (Col.5, lines 13-15).

An input device for selecting a television program title displayed on the display screen (RC 1008; Fig. 10);

A processor (Fig. 10, el. 1006) for identifying data available on the public network (Internet) that is related to the selected television program title (reads on the system bases on user's profile that contains of selected TV program titles viewed by a viewer, the system identifies related data, i.e. advertisement, to selected TV program title viewed and then presents it to viewer; see Col. 41, lines 20-25 and Col. 51, lines 48-55. Moreover, Herz discloses the collected data, i.e. user profile, could be collected by the data collection system 508,622 on a real-time basis, see Col. 42, lines 60-63; For example, the TV program title is collected by the data collection system (508,622) each time the user selects it, and based on the collected data (selected TV program title viewed by a viewer), the system identifies related data to the collected data and then presents related data to corresponding viewer);

A communication device (Fig. 10, el. 1020) for receiving the identified data related to the selected television program title; and

A controller for displaying the received data related to the selected television program title on the display screen (Col.46, lines 54-60 and Col. 51, lines 3-65+).

Regarding claim 2, wherein the database resides on one or more remote file servers accessible through a communication link (Col.46, line 65-67).

Regarding claim 3, wherein the communication link comprises an Internet (Col.51, lines 6-7).

Regarding claim 4, wherein the identified data comprises an advertisement (Col. 41, lines 20-25; Col.47, lines 59-67 and Col.48, lines 1-5).

Regarding claim 5, Herz further discloses means for monitoring (Col.14, lines 3-7) and storing a plurality of user selections of television programs (Col.25, lines 37-41);

Means for learning a user preference based on the plurality of user selections of the television programs (Col. 6, lines 50-57);

Means for activating the program guide based on the user preference (for reminding the user to view the preferred television program; Col.23, lines 1-7);

Regarding claim 6, wherein the means for learning the user-preference comprises means for storing the user preference responsive to a user input (Col.22, lines 19);

Regarding claim 7, wherein the user preference comprises a television program (Col.25, lines 16-18).

Regarding claim 8, wherein the user preference comprises a theme for a plurality of television programs (Col. 4, lines 32-34).

Regarding claim 9, wherein the means for activating comprises means for reminding a user to view a preferred television program (Col.23, lines 1-7).

Regarding claim 10, wherein the means for activating comprises means for recording a preferred television program (a record is kept of all movies or shows watched by all customers, Col. 1, lines 50-55 and Col.38, lines 42-43).

Regarding claim 11, wherein the means for activating comprises means for downloading a copy of a preferred television program to a digital storage medium (memory; Col.51, lines 40-52).

Regarding claim 12, wherein the activating means comprises means for searching the television schedule information (Col. 5, lines 54-58); means for identifying television programs matching the theme for the plurality of television programs (Col. 6, lines 1-35); and means for recording the television programs matching the theme for the plurality of television programs (Col. 25, lines 15-30).

Regarding claim 13, wherein the activating means comprises means for searching the television schedule information (Col. 5, lines 54-58); means for identifying television programs matching the theme for the plurality of television programs (Col. 6, lines 1-35); and downloading a copy of the television programs

matching the theme for the plurality of television programs to a digital storage medium (Col. 25, lines 15-30).

Regarding claim 14, wherein the means for activating comprises means for adapting the television schedule information displayed on the screen based on the user-preference (Col.45, line 14-38).

Regarding claim 15, further comprising:

means for displaying preview programming for future-scheduled television program (Col.48, lines 48-55);

means for identifying a plurality of sources of information (Col.4, lines 33) having data related to the future-scheduled television program (Col. 41, lines 25-30);

means for selecting an identified source of information (advertiser) having data (advertisement) related to the future-scheduled television programs (Col. 41, lines 25-30);

means responsive to the selected source of information for establishing a link to the identified source of information (Fig.10, Col.47, lines 55-65+); and

means for displaying data (targeted advertising) from the linked source of information (advertiser) on the screen (Col.47, lines 54-65+).

Regarding claim 16, wherein the data related to the future-scheduled television program comprises one or more advertisement, video preview, and textual information (Col.47, lines 54-65+; Col. 51, lines 5-28 and lines 50-52);

Regarding claim 17, further comprising means for storing and displaying advertisement data (Col. 47, lines 59-67 and Col.48, lines 1-5).

Regarding claim 18, wherein the identified data comprises one or more of selected TV program actors, actresses, themes, other broadcast times, other broadcast sources, and associated available products (Col. 4, lines 64-67; Col. 51, lines 48-55).

- Claim 19 is analyzed with respect to claim 1
- Claim 20 is analyzed with respect to claim 2
- Claim 21 is analyzed with respect to claim 3
- Claim 22 is analyzed with respect to claim 4
- Claim 23 is analyzed with respect to claim 5
- Claim 24 is analyzed with respect to claim 6
- Claim 25 is analyzed with respect to claim 7
- Claim 26 is analyzed with respect to claim 8
- Claim 27 is analyzed with respect to claim 9
- Claim 28 is analyzed with respect to claim 10

Claim 29 is analyzed with respect to claim 11

Claim 30 is analyzed with respect to claim 12

Claim 31 is analyzed with respect to claim 13

Claim 32 is analyzed with respect to claim 14

Claim 33 is analyzed with respect to claim 15

Claim 34 is analyzed with respect to claim 18

Claim 35 is analyzed with respect to claim 16

Claim 36 is analyzed with respect to claim 17

Claim 37 is analyzed with respect to claim 18

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht
08/04/2005



HAI TRAN
PRIMARY EXAMINER